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Sec. 1. - Purpose.

The new Citizen Complaint Authority (CCA) will replace the Citizen Police Review Panel (CPRP) and the police investigations functions of OMI. The CCA's mission will be to investigate serious interventions by police officers, including but not limited to shots fired, deaths in custody and major uses of force, and to review and resolve all citizen complaints in a fair and efficient manner. It is essential that the CCA uniformly be perceived as fair and impartial, and not a vehicle for any individuals or groups to promote their own agendas. It is also essential that the CCA be encouraged to act independently consistent with its duties.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 2. - Staffing and Powers.

CCA will have three components: (1) a board of seven citizens appointed by the mayor and approved by city council, (2) a full-time executive director with appropriate support staff, and (3) a team of professional investigators.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 2-A. - The Board of Citizens.

The board will include a diverse array of seven individuals, from a cross-section of the Cincinnati community, who have the requisite education and experience to impartially review evidence and render judgments on alleged officer misconduct. The mayor will accept nominations from the City's fifty-two community councils, business, civic, social service and other agencies and organizations. The mayor also will accept applications from individual City residents. The members will serve for a maximum of two terms of two years each, except that three of the initial appointees will be appointed for one year. Those three shall be limited to a single second term of two years in order to ensure that the board has

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staggered terms. In the event of the resignation, removal, death, or incapacitation of a member of the panel, any replacement member shall serve the remainder of that term.

1. Applicants for a position on the board shall execute a signed release authorizing a thorough background check, including a criminal check. No person may serve on the board who has been convicted of a felony, assault on a police officer, or any crime of dishonesty. The results of the background check for any person appointed to the board shall be a matter of public record and shall be retained for five years.
2. The board shall select a chairperson from among its members, who shall serve for a term of one year.
3. The board and the executive director, in consultation with the city manager, shall develop Standards of Professional Conduct and a comprehensive training program for board appointees. Said standards shall be approved by the city manager. Before assuming office and prior to beginning their duties, each member of the board shall be required to complete a basic course of training, including courses at the Cincinnati Police Academy, instruction in constitutional and criminal protections, and ride-alongs with members of the CPD assigned to patrolling the City, in order to fully and adequately inform each board member of the training and duties of Cincinnati police officers. Each appointee must promise to abide by the Standards and satisfactorily complete the training as a condition of appointment and prior to service on any cases. The mayor, after consultation with the other board members, may remove an individual from the board for cause, including failure to strictly abide by (including action inconsistent with) the Standards or failure to properly discharge the duties of the office. The mayor shall seek to act in a manner consistent with the recommendations of the other board members.
4. The CCA will not commence operations until each member of the board has satisfactorily completed the training program and promised to abide by the Standards. Until that time, OMI and the Citizens Police Review Panel shall continue in their current roles. Thereafter, new appointees to the board shall be afforded up to a maximum of ninety (90) days to complete training and promise to abide by the Standards. The CCA shall assume jurisdiction over all of the police cases pending before OMI and the CPRP at the time of the transfer. There shall be no break in civilian review as a result of this transition.
5. The board and executive director shall develop the specific procedures necessary for the CCA to carry out its mission, including the procedure to convene hearings on cases, procedures for investigations, procedures for coordination of work with CPD, and other operating procedures. Consistent with the City Charter, any procedures affecting the administrative service shall be approved by the city manager.
6. Board members shall be compensated at the rate of \$100 per meeting. The chairperson shall be compensated at the rate of \$125 per meeting.
7. The city solicitor shall provide legal counsel on a routine basis to the CCA. The city solicitor shall designate an assistant city solicitor for the CCA who shall maintain independence from and not be involved with any other legal work involving the CPD or individual police officers. If the board determines on an individual case that it requires outside counsel, it shall notify the city solicitor. The solicitor will respond to and cooperate fully with the board to employ counsel whenever the solicitor determines in the exercise of her professional discretion that there is the need for such outside counsel. If the city solicitor determines that there is no need for outside

counsel she shall explain her determination to the city manager, who shall relay it to the board.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 2-B. - Executive Director.

The city manager shall appoint the CCA's executive director, who shall be an unclassified employee of the City. The city manager shall consult with the board and seek the board's recommendations, provided, however, that the final selection of the executive director shall be made by the city manager. The executive director shall serve as an unclassified employee and may be discharged by the city manager after consultation with the board. This provision shall not relieve the city manager of the duty to respect the need of the executive director to act independently, consistent with the duties of the executive director. The executive director will be accountable for the efficient operations of the CCA, and for the achievement of the desired outcomes set forth above.

The executive director shall have professional experience in the investigation of allegations of police misconduct, and he/she should be perceived as fair and impartial. To this end, the city manager and other city officials, including elected officials, shall be prohibited from interfering with individual investigations.

The executive director shall be responsible for day-to-day operations of the CCA, including (i) recommendations for hiring of professional and support staff, (ii) preparation, submission and adherence to a budget, (iii) conduct and timely completion of investigations, (iv) reporting to the City on the CCA's work, and (v) maintaining an effective working relationship with the CPD and other branches of government. Within the resources allocated by city council, the executive director shall ensure that the CCA's human and other resources are sufficient to ensure timely completion of investigations and maintenance of complete and accurate records.

As a condition of employment, all police officers and city employees are required to provide truthful and accurate information to the CCA. In addition to the foregoing, when a key witness other than a city employee refuses to cooperate in an investigation, the executive director may recommend to the board that a subpoena be issued to compel such testimony, and the board shall have the authority to request such a subpoena from city council. Subpoenas for the attendance of persons shall be secured only through city council. The board shall have the authority to issue subpoenas for documents, photographs, audio tapes, electronic files and tangible things, subject to approval by the board's legal counsel.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 2-C. - Investigators.

The City's Office of Municipal Investigations currently has four full-time investigators assigned to police cases. The CCA shall have a minimum of five professional investigators and one support person to achieve timely completion of all investigations. Each investigator shall have prior professional experience in investigations, and may be a former police or other law enforcement officer from outside the City.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 3. - CCA Investigation Process.

Each citizen complaint, excluding matters involving criminal investigations, will be directed to the CCA

regardless of where it initially is filed, and the executive director, in consultation with the board, shall establish criteria to determine whether specific complaints are suitable for CCA investigation or referral to the CPD's Citizen Complaint Resolution Process (CCRP). At a minimum, the CCA shall open its own investigation upon (i) receipt of a complaint of serious misconduct, or (ii) knowledge by the executive director of allegations of serious police intervention¹. The CCA will immediately provide the CPD with detailed information regarding the complaint, including the time and location of the underlying events and the name(s) of the officer(s) involved.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 3-A. - Investigation Assignment.

Where a complaint is to be investigated by the CCA, it will be assigned to an investigator within 48 business hours of receipt. The CPD shall notify the CCA executive director immediately upon the occurrence of a serious police intervention and the executive director shall immediately dispatch an investigator(s) to the scene. The CPD shall not interfere with the ability of the CCA investigator to monitor the work of the CPD at the scene and to monitor all interviews conducted by CPD. CCA investigators shall not physically enter the crime scene or delay or impede a criminal investigation.

The chief of police will retain the discretion to initiate a parallel CPD investigation of any complaint under investigation by the CCA. In addition, the CPD will investigate all complaints initiated within the department (i.e., where the complainant is a police employee).

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 3-B. - CPD and City Cooperation.

Police officers and other city employees will be required to submit to administrative questions consistent with existing constitutional and statutory law. See, e.g., CMC §13(f); §20(f)(5). The executive director of CCA shall have reasonable access to city records, documents and employees, including employee personnel records and departmental investigation files and reports consistent with Ohio public record laws. CCA investigations shall be conducted consistent with professional standards.

The chief of police and the executive director will develop written procedures that will assure the timely exchange of information and the efficient coordination of CCA and CPD investigations.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 3-C. - Time Allowed for Investigation Completion/Submission of Reports.

The CCA will complete its investigations within 90 days of its receipt of the complaint from a complaining citizen, provided, however, that the executive director may extend an investigation upon consultation with the board. The time required to complete investigations will be a performance accountability measure.

Upon completion of a CCA investigation, the executive director will forward the investigative report to the board. That report shall include any positive information about the officer that may be relevant. Similarly, where a complaint is referred to the CCRP, the CPD will report the results of that process to the CCA, and the executive director will submit those reports to the board. Each CCA report shall include proposed findings and recommendations. The executive director shall recommend each report either for a Board hearing or summary disposition. The complainant and respondent officer(s) also will be provided the investigative report, and each may challenge the report and/or appeal the executive

director's recommendation to the board.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 3-D. - Board Hearing.

If the board conducts a review hearing, its purpose shall be to confirm the completeness of the CCA investigation and approve or disapprove the executive director's report (findings and recommendations). The board's review hearing will not be an adversarial proceeding and should not be used to reinvestigate the matter. The board may receive witness testimony including that of the complainant and/or police officer(s). Interviews of city employees or other witnesses shall be conducted only in closed inquiry sessions unless the witness requests otherwise. Such sessions shall not be open to the public and shall include only CCA Board members, and any necessary staff or support personnel. A written record shall be kept of any statements, testimony, or other evidence obtained in such sessions. Any city employee directed to answer questions in an inquiry session shall be advised that the statements and answers given can be used only for administrative purposes relating to city employment and cannot be used in any criminal proceedings involving that employee. Such advice shall be consistent with the constitutional principles identified in *Garrity v. New Jersey*. The employee shall be further advised that a failure to answer truthfully and completely can subject the employee to disciplinary action including termination. Any employee directed to appear before the CCA for such an inquiry session may bring a legal representative or other support person of choice. Any police officer or complainant, who is directly involved in the circumstances under review, may also attend such sessions and may bring a legal representative or support person, who shall be strictly limited to consultation and such persons may not otherwise participate in the inquiry proceedings.

Following a hearing, the board may either approve or disapprove the executive director's findings and recommendations. Where the findings and recommendations are approved, they shall be submitted to the police chief and city manager. If they are disapproved, the board shall state its reasons and may direct that further investigation be pursued. The board may issue its own findings and recommendations, and submit them along with the executive director's original report to the police chief and city manager. In all cases, the city manager and police chief will refrain from making a final decision on discipline until after receipt of the CCA report. The city manager shall agree, disagree or agree in part with any findings and recommendations of either the board or the executive director, and she shall inform the executive director and the board in writing of any reasons for agreeing in part or disagreeing with said findings and recommendations. It shall be the executive director's responsibility to inform the officer(s) involved in the complaint and the complainant when a final decision has been reached on a complaint.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 3-E. - Public Availability of Reports.

Reports prepared by the CCA, the CPD or the city manager pursuant to this process shall be publicly available to the extent provided by Ohio law.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 3-F. - Records.

The CCA and CPD will create a shared electronic database that will track all citizen complaints, including the manner in which they were addressed (e.g., CCA investigation or CCRP) and their

dispositions. Subject to restrictions which may exist in any applicable collective bargaining agreements, this database also will capture data sufficient for the CCA and the CPD to identify officers involved in repeat allegations, citizens making repeat allegations and circumstances giving rise to citizen complaints. This data will be integrated into, or regularly shared with, an electronic information management system to be developed by the CPD. Procedures will be adopted to secure information which is not subject to release under Ohio law.

In addition to the foregoing, the CCA shall maintain its files for each investigation for a period of five years or such shorter period as may be provided in any applicable collective bargaining agreement. Where feasible, those files shall include tape-recorded interviews of officers, complainants and witnesses. These data will be made available for the accountability system.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 4. - Prevention.

There are two methods used for reducing citizen complaints: (i) thorough investigation of officers charged with misconduct, and (ii) examination of complaint patterns to identify at-risk officers, citizens and circumstances. The former represents the traditional method of complaint prevention. The latter method involves an examination both of circumstances that lead to complaints and opportunities to alter those circumstances. It is a problem-solving approach that may prove effective in Cincinnati.

The CCA will examine complaint patterns that might provide opportunities for the CPD and community to reduce complaints. At a minimum, the CCA will look for three types of patterns: (i) repeat officers, (ii) repeat citizen complainants, and (iii) repeat complaint circumstances. Following the identification of such patterns, the CCA and the CPD jointly will undertake a problem-solving project to determine the reason(s) for the pattern and whether there are opportunities to eliminate or reduce root causes. Where feasible, this project should involve both affected officers and the community.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 5. - Information Dissemination.

The CCA will develop a clear and direct information brochure to inform citizens how they can access the CCA and how the CCA operates. The City will make this brochure available to all citizens, including at public libraries and other public facilities.

The executive director will be responsible for working with the CPD and community to develop and implement an information plan that ensures officers and citizens fully understand the investigation, mediation, restoration, and prevention processes outlined above, and that the CCA's achievements are clearly articulated to the public and the CPD.

The CCA shall issue annual reports summarizing its activities for the previous year including a review of significant cases and recommendations. Such reports shall be issued to city council and the city manager, and made available to the public.

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)

Sec. 6. - Resources and Redundancy.

The city council will allocate resources sufficient for the CCA and CPD to accomplish the foregoing.

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The CPRP and police investigation functions of OMI will be eliminated, and associated resources will be allocated to the CCA.

ACCOUNTABILITY MEASUREMENTS

Was the CCA established on a timely basis?

Was the CCA fully staffed and resourced?

Was an effective Memorandum of Understanding developed establishing a co-operative working relationship between the CPD and the CCA?

How many complaints were handled and what were the categories of those complaints?

What was the time to disposition of the complaints?

What were the outcomes of the complaints?

Was a mediation process established?

Was a restorative justice process established and evaluated?

Were basic goals/objectives/outcomes achieved?

(Ordained by Ord. No. 149-2002, eff. May 15, 2002)